

Part 6 Penalties

58-37f-601 Unlawful release or use of database information -- Criminal and civil penalties.

- (1)
- (a) Any person who knowingly and intentionally releases:
 - (i) any information in the database or any information obtained from other state or federal prescription monitoring programs by means of the database in violation of the limitations under Part 3, Access, is guilty of a third degree felony; or
 - (ii) any information in the database accessed under Section 58-37f-303 by an electronic data system, or accessed by a person via an electronic data system, in violation of rules established by the division under Subsection 58-37f-303(4) is guilty of a third degree felony.
 - (b) Any person who negligently or recklessly releases:
 - (i) any information in the database or any information obtained from other state or federal prescription monitoring programs by means of the database in violation of the limitations under Part 3, Access, is guilty of a class C misdemeanor; or
 - (ii) any information in the database accessed under Section 58-37f-303 by an electronic data system, or accessed by a person via an electronic data system, in violation of rules established by the division under Subsection 58-37f-303(4) is guilty of a class C misdemeanor.
- (2)
- (a) Any person who obtains or attempts to obtain the following by misrepresentation or fraud is guilty of a third degree felony:
 - (i) information from the database;
 - (ii) information from any other state or federal prescription monitoring program by means of the database; or
 - (iii) information from the database or any other state or federal prescription monitoring program via an electronic data system under Section 58-37f-303.
 - (b) Any person who obtains or attempts to obtain information from the database, including via an electronic data system under Section 58-37f-303 that has access to the database, for a purpose other than a purpose authorized by this chapter or by rule is guilty of a third degree felony.
- (3)
- (a) Except as provided in Subsection (3)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person the following information for any purpose other than those specified in Part 3, Access:
 - (i) information obtained from the database;
 - (ii) information obtained from any other state or federal prescription monitoring program by means of the database; or
 - (iii) information in the database accessed under Section 58-37f-303 by:
 - (A) an electronic data system; or
 - (B) a person via an electronic data system.
 - (b) Each separate violation of this Subsection (3) is a third degree felony and is also subject to a civil penalty not to exceed \$5,000.
 - (c) The procedure for determining a civil violation of this Subsection (3) is in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

- (d) Civil penalties assessed under this Subsection (3) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).
- (e) This Subsection (3) does not prohibit a person who obtains information from the database under Subsection 58-37f-301(2) (h), (i), (k), or (4)(c) from:
 - (i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file; or
 - (ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996.

Amended by Chapter 112, 2016 General Session

Amended by Chapter 238, 2016 General Session

58-37f-602 Failure by pharmacist to submit information -- Penalties.

- (1) The failure of a pharmacist in charge to submit information to the database as required under Section 58-37f-203, after the division has submitted a specific written request for the information or when the division determines the individual has a demonstrable pattern of failing to submit the information as required, is grounds for the division to take the following actions in accordance with Section 58-1-401:
 - (a) refuse to issue a license to the individual;
 - (b) refuse to renew the individual's license;
 - (c) revoke, suspend, restrict, or place on probation the license;
 - (d) issue a public reprimand to the individual;
 - (e) issue a cease and desist order; and
 - (f) impose a civil penalty of not more than \$1,000 for each dispensed prescription regarding which the required information is not submitted.
- (2) Civil penalties assessed under Subsection (1)(f) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).
- (3) The procedure for determining a civil violation of this section shall be in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

Enacted by Chapter 287, 2010 General Session